

(09/92)

U. S. DEPARTMENT OF AGRICULTURE Forest Service		Holder No. 5 1 8 0-0 2	Issue Date 07/06/97	Expir. Date 1 2/3 1/0 6
SPECIAL-USE PERMIT		Type Site(s) _ _ _ 5 7 2	Authority 0 0 2	Auth. Type 2 7 2 0
		Region/Forest/District 0 4/ 1 8 / 0 3	State/County 4 9/ 0 2 3	
		Cong. Dist. 0 1	Latitude _ - - - -	Longitude _ - - - -
Authority: Organic Administration Act of June 4, 1897 (30 Stat. 35; 16 U.S.C. 477-482, 551 36 CFR 251.50 et seq				

Robert Steele of Nephi, UT 84648 (hereinafter called the Holder) is hereby authorized to use or occupy National Forest System lands, to use subject to the conditions set out below, on the Uinta National Forest, Mt. Nebo Wilderness area.

This permit covers approximately 60 acres and is described as SE1/4 SE1/4 Section 22, T12S, R1E, SLM as shown on the location map attached to and made a part of this permit, and is issued for the purpose of: Extracting permittee-owned minerals from MacFarlane 1, MacFarlane 4, and Little Doctor patented mineral interests; utilizing and maintaining existing access road off of permittee-owned minerals.

The above described or defined area shall be referred to herein as the "permit area".

TERMS AND CONDITIONS

I. AUTHORITY AND GENERAL TERMS OF THE PERMIT

A. Authority. This permit is issued pursuant to the authorities enumerated at Title 36, Code of Federal Regulations, Section 251 Subpart B, as amended. This permit, and the activities or use authorized, shall be subject to the terms and conditions of the Secretary's regulations and any subsequent amendment to them.

B. Authorized Officer. The authorized officer is the Forest Supervisor or a delegated subordinate officer.

C. License. This permit is a license for the use of federally owned land and does not grant any permanent, possessory interest in real property, nor shall this permit constitute a contract for purposes of the Contract Disputes Act of 1978 (41 U.S.C. 611). Loss of the privileges granted by this permit by revocation, termination, or suspension is not compensable to the holder.

D. Amendment. This permit may be amended in whole or in part by the Forest Service when, at the discretion of the authorized officer, such action is deemed necessary or desirable to incorporate new terms, conditions, and stipulations as may be required by law, regulation, land management plans, or other management decisions.

E. Existing Rights. This permit is subject to all valid rights and claims of third parties. The United States is not liable to the holder for the exercise of any such right or claim.

F. Nonexclusive Use. The rights conveyed by this permit are nonexclusive.

G. Public Access and Use. Unless such would interfere with active mining operations, the holder agrees to allow the public free and unrestricted access to and use of the permit area at all times for all lawful purposes.

H. Forest Service Right of Entry and Inspection. The Forest Service shall have free and unrestricted access at all times, including the right to enter into all buildings, structures, or other facilities to ensure compliance with the terms and conditions of this permit or any federal or state law or regulation.

I. Assignability. This permit is not assignable or transferable. If the holder through death, voluntary sale or transfer, enforcement of contract, foreclosure, or other valid legal proceeding shall cease to be the owner of the improvements, this permit shall terminate.

J. Permit Limitations. Nothing in this permit allows or implies permission to build or maintain any structure or facility, or to conduct any activity unless specifically provided for in this permit. Any use not specifically identified in this permit must be approved by the authorized officer in the form of a new permit or permit amendment.

II. TENURE AND ISSUANCE OF A NEW PERMIT

A. Expiration at the End of the Authorized Period. This permit will expire at midnight on December 31, 2006. Expiration shall occur by operation of law and shall not require notice, any decision document, or any environmental analysis or other documentation.

B. Notification to Authorized Officer. If the holder desires issuance of a new permit after expiration, the holder shall notify the authorized officer in writing not less than six (6) months prior to the expiration date of this permit.

C. Conditions for Issuance of a New Permit. At the expiration or termination of an existing permit, a new permit may be issued to the holder of the previous permit or to a new holder subject to the following conditions:

1. The authorized use is compatible with the land use allocation in the Forest Land and Resource Management Plan.
2. The permit area is being used for the purposes previously authorized.
3. The permit area is being operated and maintained in accordance with the provisions of the permit.
4. The holder has shown previous good faith compliance with the terms and conditions of all prior or other existing permits, and has not engaged in any activity or transaction contrary to Federal contracts, permits, laws, or regulation.

D. Discretion of Forest Service. Notwithstanding any provisions of any prior or other permit, the authorized officer may prescribe new terms, conditions, and stipulations when a new permit is issued. The decision whether to issue a new permit to a holder or successor in interest is at the absolute discretion of the Forest Service.

III. RESPONSIBILITIES OF THE HOLDER

Holder is required to assure the mining operations are conducted in compliance with the terms and conditions of Appendix A.

In Addition:

- A. Hazard Analysis. The holder has a continuing responsibility to identify and abate hazardous conditions on the permit area which could affect the improvements or pose a risk of injury to individuals. Any actions to abate such hazards shall be performed after consultation with the authorized officer.
- B. Compliance with Laws, Regulations, and other Legal Requirements. The holder, in exercising the uses authorized by this permit, will assume responsibility for compliance with the regulations of the Department of Agriculture and all Federal, State, county, and municipal laws, ordinances, or regulations which are applicable to the area or operations covered by this permit. The obligations of the holder under this permit are not contingent upon any duty of the Forest Service to inspect the premises. A failure of the Forest Service, or other governmental officials, to inspect is not a defense to noncompliance with any of the terms and conditions of this permit.
- C. Fire Prevention and Suppression. The holder shall take all reasonable precautions to prevent and suppress forest fires. Open fires are prohibited except with written permit from the authorized officer or the authorized officer's agent.
- D. Change of Address. The holder shall immediately notify the authorized officer of a change in address.
- E. Change in Ownership of the Authorized Improvements. This permit is not assignable and terminates upon change of ownership of the improvements. The holder shall immediately notify the authorized officer when a change in ownership of the improvements is pending. Notification by the present holder and potential owner shall be executed using Form FS-2700-3, Special Use Application and Report, or Form FS-2700-3a, Request for Termination of and Application for Special-Use Permit. Upon receipt of the proper documentation, the authorized officer may issue a permit to the new owner of the improvements.

IV. LIABILITY

For purposes of this section, "holder" includes the holder's heirs, assigns, agents, employees, and contractors.

A. Risk of Loss. The holder assumes all risk of loss of the property. Loss to the property may result from, but is not limited to, theft, vandalism, fire, avalanches, rising waters, winds, falling limbs or trees, and acts of God.

B. Damage to Property of the United States. The holder has an affirmative duty to protect from injury and damage the land, property, and other interest of the United States. Damage includes, but is not limited to, fire suppression costs and all costs and damages associated with or resulting from the release or threatened release of a hazardous substance occurring during or as a result of the holder's activities on, or related to, the lands property, and other interests covered by the permit.

1. The holder shall compensate in full the United States for damages occurring under the terms of this permit or under any law or regulation applicable to the National Forests. The holder shall be liable for all injury, loss, or damage, including fire suppression, or other costs associated with rehabilitation or restoration of natural resources, associated with the holder's use or occupancy. Compensation shall include, but is not limited to, the value of resources damaged or destroyed, the costs of restoration, cleanup, or other mitigation, fire suppression or other types of abatement costs, and all administrative, legal (including attorney fees), and other costs in connection therewith.

C. Indemnification and Liability of the United States. The holder shall comply with all applicable federal, state, and local laws and regulations, including but not limited to the Federal Water Pollution Control Act, 33 U.S.C. 1251 et seq, the Oil Pollution Act, 33 U.S.C. 2701 et seq, the Clean Air Act, 42 U.S.C. 7401 et seq, the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq, and the Comprehensive Environmental Response, Control, and Liability Act, 42 U.S.C. 9601 et seq, as subsequently amended. The holder shall indemnify, defend, and hold the United States harmless for any violations incurred under any such laws and regulations or for any costs, damages, claims, liabilities, and judgements arising from past, present, and future acts or omissions of the holder in connection with the use and/or occupancy authorized by this permit. This indemnification and hold harmless agreement includes, but is not limited to, acts and omissions of the holder in connection with the use and/or occupancy authorized by this permit which result in: (1) violations of the above or any applicable laws and regulations; (2) judgements, claims, or demands assessed against the United States; (3) costs, expenses, and damages incurred by the United States; or (4) other releases or threatened releases on or into land, property, and other interest of the United States by solid waste and/or hazardous substance(s).

The holder's indemnification of the United States shall also include any damage to life or property arising from the holder's occupancy or use of land, property, and other interest of the United States. The United States has no duty to inspect permit area or to warn of hazards and, if the United States does inspect the permit area, it shall incur no additional duty nor liability for identified or non-identified hazards. This covenant may be enforced by the United States in a court of competent jurisdiction.

V. TERMINATION, REVOCATION, AND SUSPENSION

A. General. For purposes of this permit, "termination", "revocation", and "suspension" refer to the cessation of uses and privileges under the permit.

"Termination" refers to the cessation of the permit under its own terms without the necessity for any decision or action by the authorized officer. Termination occurs automatically when, by the terms of the permit, a fixed or agreed upon condition, event, or time occurs. For example, the permit terminates at expiration. Terminations are not appealable.

"Revocation" refers to an action by the authorized officer to end the permit because of noncompliance with any of the prescribed terms, or for reasons in the public interest. Revocations are appealable.

"Suspension" refers to a revocation which is temporary and the privileges may be restored upon the occurrence of prescribed actions or conditions. Suspensions are appealable.

B. Revocation or Suspension. The Forest Service may suspend or revoke this permit in whole or part for:

1. Noncompliance with Federal, State, or local laws and regulations.
2. Noncompliance with the terms and conditions of this permit.
3. Reasons in the public interest.
4. Abandonment or other failure of the holder to otherwise exercise the privileges granted.

C. Opportunity to Take Corrective Action. Prior to revocation or suspension for cause pursuant to Section V (B), the authorized officer shall give the holder written notice of the grounds for each action and a reasonable time, not to exceed 90 days, to complete the corrective action prescribed by the authorized officer.

D. Removal of Improvements. Upon abandonment, revocation, termination, or expiration of this authorization, the holder shall remove within a reasonable time prescribed by the authorized officer all structures and improvements, except those owned by the United States, and shall restore the site. If the holder fails to remove all structures or improvements within the prescribed period, they shall become the property of the United States and may be sold, destroyed or otherwise disposed of without any liability to the United States. However, the holder shall remain liable for all cost associated with their removal, including costs of sale and impoundment, cleanup, and restoration of the site.

VI. OTHER PROVISIONS

A. Members of Congress. No Member of or Delegate to Congress or Resident Commissioner shall benefit from this permit either directly or indirectly, except when the authorized use provides a general benefit to a corporation.

B. Appeals and Remedies. Any discretionary decisions or determinations by the authorized officer are subject to the appeal regulations at 36 CFR 251, Subpart C, or revisions thereto.

C. Removal and Planting of Vegetation. This permit does not authorize the cutting of timber or other vegetation except in accordance with the standards set out in Appendix A.

D. The designated representative shall prepare stipulations titled Appendix A. The stipulations shall cover all operations, regardless of season, as appropriate. The provisions of Appendix A shall become a part of this permit. The stipulations shall address the holder's activities and the environment and shall include sufficient detail and standards to enable the Forest Service to monitor operations for compliance.

This permit is accepted subject to the conditions set out above.

HOLDER NAME: Robert Steele
By: *Robert Steele*
(Holder Signature)

U. S. DEPARTMENT OF AGRICULTURE
Forest Service
By: Peter W. Karp
(Authorized Officer Signature)
Peter W. Karp
Forest Supervisor
(Title)

Date: _____

Date: 7/7/97

APPENDIX A

Each of the following items are subject to further negotiation, and will be modified or eliminated if the proponent can demonstrate to the satisfaction of the Forest Service that they unreasonably restrict his ability to mine.

OPERATIONS

1. It is understood between the Forest Service and the proponent that the planned operation is that set forth in the Plan of Operations dated July 13, 1990, as amended by the statement of amended operations presented in the letter from the proponent's attorney in the late fall, 1994.

2. Proponent shall annually submit a written Plan of Operations identifying foreseeable changes from the previous year's operation.

3. Proponent agrees that all construction and mining operations will be conducted according to state air quality standards.

4. Proponent agrees to apply water as necessary on unpaved access routes, construction mining areas, haul roads and any other areas involved in the mining operation and located on National Forest System lands.

5. Highwalls shall be stabilized by backfilling or rounding to 45 degrees or less, where feasible. The land should then be reshaped to or near its original contour, and topsoil and suitable overburden should be redistributed.

6. If the Forest Service determines that the height of the pit walls in relation to the overall operation will not provide for lateral stability, then the Forest Service will address this by:

a. Negotiation with proponent to change pit wall height;

or

b. Increase in the amount of surety bond to cover costs of potential resource damage to adjacent National Forest Systems lands.

7. Operations must be designed and conducted in a manner which minimizes cut slopes and disturbed areas. Cut slopes should be stabilized wherever possible by seeding with a Forest Service approved mixture.

8. Operations should be designed and conducted in a manner which reduces visual impacts whenever possible.

9. Operations shall be designed and operated so as to minimize erosion and control sedimentation. Berms shall be constructed around disturbed locations, and settlement pond(s) utilized, as appropriate. Top soil stockpiles and overburden dumps should be carefully selected to minimize erosion and sedimentation. Drainage along roadways must be designed to intercept surface runoff. Proponent shall insure there is no discharge from the operation to the stream.

10. The Forest Service will conduct a water quality monitoring program to assure that federal and state laws and regulations are being met.

11. Operations are subject to existing water rights, including those exercised by the Gardner Canyon Irrigation Company.

12. Proponent shall not impact wetlands without first obtaining a Clean Water Act Section 404 permit.

13. Petroleum products and chemicals must be stored in durable or impermeable containers.

14. All oil and petroleum products will be removed and disposed of according to state and federal regulations. All garbage and waste will be properly disposed of off National Forest System lands. The working area should be kept clean at all times.

15. Equipment service areas must be located away from streams in order to prevent contamination of surface or ground waters.

16. Operations may only be conducted from April 1 to November 15 in order to reduce the impact to primary big-game winter range areas as requested by the Utah Division of Wildlife Resources.

(Start-up before May 15 requires the permittee to provide notice five business days before starting operations. If there are concerns that operations will impact wintering big-game, operator will agree to wait until May 15.)

17. All improvements and equipment must be removed from National Forest System lands when no longer necessary to mining operations.

18. The proponent shall place signs at appropriate locations explaining the mining activity and advising visitors of safety precautions.

19. A bond in the amount of \$40,000 shall be posted prior to the commencement of any ground-disturbing activities. (36 C.F.R. 251.56(e).)

RECLAMATION

1. All disturbed areas must be reclaimed as soon as practical. This includes exploration and haul roads, which shall be reclaimed when no longer needed for access.
2. On-site roads and pads shall be reclaimed when they are no longer needed for operations.
3. Topsoil stockpiles in place for two years or more, or located where erosion could occur, must be seeded.
4. Reclamation must occur in a timely, concurrent fashion.
5. There shall be restoration of wildlife habitat for big-game winter range where feasible.
6. Topsoil should be stockpiled during active operations. After final grading, soil materials shall then be redistributed on a stable surface, so as to minimize erosion, prevent undue compaction and promote revegetation.
7. Revegetation shall be accomplished using a Forest Service approved seed mixture.
8. Adequate and timely (2-3 weeks) surface revegetation shall be conducted on any landslides which are attributable to mining operations. The Forest Service will specify the seed mixture.
9. Proponent shall undertake appropriate temporary reclamation at times of seasonal shutdown in order to mitigate erosion, runoff and sedimentation problems.
10. If natural channels have been affected by mining operations, then reclamation must be performed such that the channels will be left in a stable condition with respect to actual and reasonably expected water flow so as to avoid or minimize future damage to the hydrologic system.